

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

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CYNTHIA ANNE DIVEGLIA formerly CYNTHIA ANNE KAYLOR,  
Plaintiff,

-VS-

Case No. 1-CV-00-1342

NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY,  
Defendant.

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Video Examination of DR. RICHARD R. POWELL,  
taken at the instance of the Plaintiff, under and  
pursuant to the Federal Rules of Civil Procedure,  
pursuant to Notice, before JANE M. JONES, a Certified  
Realtime Reporter, Registered Merit Reporter and Notary  
Public in and for the State of Wisconsin, at Brown &  
Jones Reporting, Inc., 312 East Wisconsin Avenue,  
Milwaukee, Wisconsin, on the 24th day of April, 2001,  
commencing at 11:55 a.m. and concluding at 12:51 p.m.

1 Q What is that, sir?

2 A I was in the private practice of general internal  
3 medicine for approximately ten years.

4 Q Okay. Well, here's my question, and maybe I  
5 inadvertently asked it. My question is, in the --  
6 from 2001, back 15 years.

7 A I'm sorry. No.

8 Q Okay.

9 A Northwestern Mutual has been my sole employer since  
10 1986.

11 Q All right, and so is it fair to state that you  
12 haven't treated any patients for at least 15 years?

13 A That is correct.

14 Q Okay. Now, you don't claim to have any specialty  
15 in oncology, the treatment of cancer, do you?

16 A My knowledge of oncology is what I would have to  
17 require board certification in internal medicine,  
18 and I have, when I was in general internal medicine  
19 practice, treated many patients with various forms  
20 of cancer in conjunction with an oncologist.

21 Q Okay, and that was back beyond 15 years ago?

22 A That is correct.

23 Q And did you ever treat any patients back when you  
24 were involved in the treatment of patients that had  
25 incurred 100-percent lymph-node involvement in

### breast cancer patients?

A I can't recall exactly, but I would estimate that I have, yes.

Q And did you ever treat any patients with high-dose intense chemotherapy, such as Cynthia Kaylor went through?

A Thinking back 15 years ago, it depends upon your definition of intense chemotherapy. That's changed quite a bit in the past 20 years.

Q Would you agree that -- you're aware what she underwent, weren't you?

A I'm aware of treatment protocol she underwent, yes, I am.

Q Do you agree that that is a -- was a brand new treatment or protocol, something that was not out on the market, so to speak. statement of care?

A It was not on the market when I was in practice, no.

Q And are you aware of the fact that the treatment she received required her to sign special disability -- excuse me, special consent forms because it was not FDA approved?

A No, I was not aware of that.

Q Have you ever written any articles on the treatment of cancer?

1 A No, I have not.

2 Q Have you written any articles that have been  
3 published in any peer-reviewed medical journal?

4 A No, I have not.

5 Q Are you recognized by your peers as an authority on  
6 cancer treatment?

7 A No, I am not.

8 Q You are certified by the Board of Insurance  
9 Medicine, are you not?

10 A That is correct.

11 Q And you're a member of the American Council of Life  
12 Insurance, is that correct?

13 A Yes, I am.

14 Q What is that?

15 A That is an association of life insurance companies,  
16 and there is a medical section for medical  
17 directors.

18 Q Okay. Am I correct that you have not been a member  
19 of any hospital committee or hospital staff in the  
20 past 15 years?

21 A That is correct.

22 Q And am I correct that you haven't been -- well, let  
23 me ask you this. Do you have an immediate  
24 supervisor?

25 A I have -- you mean a boss? Yes, I do.

1 obtained that knowledge; in other words, was it  
2 from your journal meetings, was it from your  
3 discussions with Dr. Cannon -- or Conner, I'm  
4 sorry.

5 Can you pinpoint to us, if you can, where  
6 you think the source of the knowledge was that  
7 stress reduction does not -- that there are not  
8 studies that support stress reduction leads to  
9 longer-term remission?

10 A The knowledge would have come from the fact that I  
11 have never run across any articles which support  
12 that, all right, in 15 years of regularly reviewing  
13 the medical literature and ten years of clinical  
14 practice, where I also kept up an active review of  
15 the medical literature and also dealt with oncology  
16 patients.

17 Q So you do read these journals that you subscribe  
18 to?

19 A I review them, yes.

20 Q And when you review something -- I would take it  
21 that this issue of stress reduction and cancer  
22 remission may have come up more than once, from  
23 what you've just told us?

24 A I can recollect it's come up at least once or twice  
25 before, but not as an isolated issue on a claim.

1 Q Okay. Well, do you ever, when you read these  
2 articles, make photocopies or some way make a note,  
3 bring it to the office, tear it out of the journal,  
4 so you have a file on this stuff?

5 A If it is of interest to me, and I want to make a  
6 copy, yes, I will.

7 Q Do you have any file at all relating to this  
8 focused issue as to whether stress reduction can  
9 increase long-term remission? Do you have any file  
10 at all where you just have a bunch of documents?

11 A I don't have any file because as I said before,  
12 I've never seen an article, okay, that supports or  
13 doesn't support that issue. I've never seen a  
14 study on that.

15 Q Okay. Tell me in what manner Cynthia Diveglia's  
16 claim came to your desk?

17 A It was brought to my attention through consultation  
18 with Pat Sheehan.

19 Q Okay, and what was the point of the consultation?

20 A The point of the consultation, initially, was the  
21 stated reason for her continuing disability being  
22 to reduce stress in order to lessen the likelihood  
23 of a recurrence.

24 Q The stated reason being her physicians, Drs. Borgen  
25 and Seidman?